

REMARKS

By the *Office Action* of 2 March 2011, Claims 1-8, 14-16, and 21-34 are pending in the *Application*, and all rejected. Applicant thanks the Examiner with appreciation for the careful consideration and examination given to the Application.

Applicant submits this *Response* solely to facilitate prosecution. As such, Applicant reserves the right to pursue claims of broader or similar scope as originally filed in a continuation application or other application after allowance of the present *Application*. Applicant does not concede that the current or past rejections are correct and reserves the right to challenge such rejections later in prosecution or on appeal. Accordingly, any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter. As certain of the current amendments may include broadening amendments, Applicant respectfully requests the Examiner to revisit any previously reviewed references cited in this *Application* to further ensure that the currently pending claims remain patentable over any previously reviewed references.

By the present *Response and Amendment*, no new matter is believed introduced, and all pending Claims is allowable form.

1. Rejection of the Claims

The Examiner rejects Claims 1-8, 14-16, and 21-33 under 35 U.S.C. §103 (a) as allegedly being unpatentable over U.S. Patent No. 5,984,935 to Welt et al. in view of both U.S. Patent Publication No. 2005/0197665 to Teed et al. and U.S. Patent No. 6,652,550 to Kamemizu. Claim 34 is rejected under 35 U.S.C. §103 (a) as allegedly being unpatentable over Welt et al., Teed et al. and Kamemizu, in further view of U.S. Patent Publication No. 2003/0167582 to Fischer et al.

The pending independent Claims recite a device for removing a composition and depilated hair from the skin comprising, among other things, a V-shaped notch and wherein the device is made from plastic with a Flexural Modulus between 0.8 and 1.5 GPa. Support for this recitation can be found at least in ¶¶[0030]-[0031] of the published application. As none of the cited art discloses, teaches or suggests this combination, it is respectfully submitted that the pending Claims are allowable.

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Contrary to the Examiner's allegation regarding Welt et al., it does not disclose a notch on the handle. The closest component is in **Fig. 7**, which is merely a "concertina" or spring effect, and the element is not elaborated at all in the description (col. 3, lines 48-53). Thus, one of skill in the art would not recognize the presently claimed notch from Welt et al..

Further, as present clarified in the Claims, no mention is made in Welt et al. of the innate flexibility or resilience of the material that comprises the device, certainly not for a flexural modulus that confers the pressure responsivity that the device of the present Claims embodies.

Teed et al. discloses a wholly rigid device that has been molded to be "shaped" (see, ¶[0022]), and no mention is made of the material that is used to make it. There is no teaching, explicit or implicit, of the need for any flexibility in the handle or for the use of a notch to achieve this.

To provide a rejection under obviousness, the Examiner has the initial burden to at least determine the scope and content of the prior art and to ascertain the difference between the prior art and the claims at issue under the respective first and second factual inquiries of *Graham v. John Deere Co.*, 383 US 1 (1966). In view of the clarified claims, Applicant respectfully submits that the Examiner no longer meets the initial burden of determining the scope and content of the prior art and ascertaining the differences between the prior art and the claims at issue. Therefore, Applicant respectfully submits the present Claims are allowable.

Both Welt et al. and Teed et al. disclose tongue scrapers that comprise a handle portion and a tongue cleaning portion (i.e., the head) attached thereto. Neither Welt et al. nor Teed et al., however, disclose, teach, or suggest a tongue scraper having, among other things, a V-shaped notch or that is made from plastic with a Flexural Modulus between 0.8 and 1.5 GPa. Therefore, the clarifications made to Claims 1, 14, and 21 herein patently distinguish the present invention from the tongue cleaner configuration disclosed in the cited references.

Kamemizu does not disclose that which is missing from Welt et al. and Teed et al. Kamemizu is silent regarding a groove in the handle, and of any specifics as to the materials used for the handle. One part of the Kamemizu handle (5) is referred to as 'elastic,' but no further details are given as to how this might be achieved, except that it is 'thin' (col. 4, line 49). It is also taught, however, that this elasticity only partially contributes to the functioning of the

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device, along with the spring mechanism for the brush head (components 10, 11 and 12; *see col. 6, lines 13-18*).

Fischer et al. does not disclose that which is missing from Welt et al., Teed et al. and Kamemizu. Fischer et al. is clearly a very different type of device. The cleaning is effected through side-side or back-front motion of a motorized brush, and the whole of the main part of the Fischer et al. device is rigid and sits at a fixed angle. There is no explicit or implicit teaching in Fischer et al. of the need or benefit for any flexibility in the handle or main part of the device.

Consequently, the combined teachings of Welt et al., Teed et al., Kamemizu and Fischer et al. do not disclose, teach or suggest the device recited in clarified Claims 1, 14, and 21. Therefore, the combination of the references cannot render the clarified Claims obvious. Applicant further submits that Claims 2-5, 7, 15, and 23-34 cannot be rendered obvious by the cited references, at least due to their dependence on the clarified claims and for further features contained therein.

2. Fees

This *Response and Amendment* is being filed within six months of the *Office Action*. As a result, Applicant submits herewith a petition for a three month extension of time.

No additional independent Claim fees are believed due, but one additional Claim fee as to the total number of Claims is believed due.

Authorization is hereby expressly given to the Commissioner to any additional fees that may be required to Deposit Account No. 20-1507.

CONCLUSION

By the present *Response and Amendment*, this Application has been placed in full condition for allowance. Accordingly, Applicant respectfully requests early and favorable action. Should the Examiner have any further questions or reservations, the Examiner is invited to telephone the undersigned Attorney at 404.885.2773.

Respectfully submitted,

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